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such securities. *United States v. State Bank*, 96 U. S. 30; *Bank of the United States v. The United States*, 2 How. (U. S.) 711; *The United States v. Bank of the Metropolis*, 15 Pet. (U. S.) 377; *Cooke v. United States*, 91 U. S. 389; *United States v. Barker*, 12 Wheat. (U. S.) 559. In *Branch v. Commissioners of Sinking Fund*, 80 Va. 427, a case involving a question almost identical with the one in the principal case, it was held, that where negotiable coupon bonds "had been redeemed by the state, and taken into her possession and custody, they ceased to be her obligations, and could not again become such unless she voluntarily redelivered or reissued them. * * * They had no longer any legal inception or existence as bonds of the state, and they were and are as though they never had been; and their vitality could never be restored without voluntary redelivery by the state." This theory, however, is rejected by the court in the case under comment upon the ground that the holder is not claiming by virtue of any reissue of the bond after its redemption, but by virtue of the original issue and relation to it as a bona fide holder unaffected by intervening facts. It is a well settled principle of law that mandamus will lie to compel an officer to perform a plain ministerial duty imposed by law, involving no discretionary power. *State ex rel. Irvine v. Brooks*, 14 Wyo. 393; *State v. Young*, 38 La. Ann. 923; *Martin v. Ingham*, 38 Kan. 641; *Middleton v. Low*, 30 Cal. 596; *State v. Chase*, 5 Ohio St. 528; *Humbolt Co. v. County Commissioners of Churchill*, 6 Nev. 30; *People v. Attorney General*, 22 Barb. (N. Y.) 114. It would seem, since the state is bound by the rules of law ordinarily applicable to negotiable instruments and the exchange of the bonds was expressly provided for by statute, that the writ was properly issued.

CARRIERS—MAY, AS LESSORS, CONTRACT FOR TOTAL EXEMPTION FROM LIABILITY FOR NEGLIGENCE.—Plaintiff was an employe of a circus company which was being transported in its own cars over defendant's railway; while in a sleeping car, attached to one section of the circus train, he was injured in a rear end collision between that section and the one following. The train was drawn by defendant's engines; it was in charge of defendant's employees and under control of defendant's dispatcher of trains under a contract, to which plaintiff was not a party, by the terms of which this defendant was to hire or lease to the circus company the use of its tracks and motive power and the services of its dispatcher and train crew, all of whom were to be considered as servants of the circus company during the movement of the circus train over defendant's lines; defendant was further to be relieved from all liability for any injury to any person or persons using the train, from any cause whatsoever. *Held*, the relation of carrier and passenger did not exist between plaintiff and defendant, and an action for negligent injury based only on that relation, could not be maintained. *Clough v. Grand Trunk Western Railway Co.* (1907), — C. C. A., 6th cir. —, 155 Fed. Rep. 81.

The opinion holds that, by its contract, defendant became a lessor of tracks, motive power and servants to the circus company, which, by these means, itself transported its property and employes over defendant's lines, that defendant was not a common carrier as to circus trains, was under no legal

duty to transport them, and could lawfully contract for exemption from liability for any and all acts of negligence. *Coup v. Wabash, etc., Ry. Co.*, 56 Mich. 111, 56 Am. Rep. 374; *Forepaugh v. Delaware, etc., Ry.*, 128 Pa. St. 217, 5 L. R. A. 508; *Robertson v. Old Colony R. R. Co.*, 156 Mass. 525, 32 Am. St. Rep. 482; *Chicago, etc., Ry. Co. v. Wallace*, 66 Fed. 506, 30 L. R. A. 161; *Wilson v. Atlantic Ry. Co.*, 129 Fed. 774. These cases support the contention that by contracting in a capacity other than as a common carrier, the railway company may limit its liability to any extent. The only limitation suggested is that the railway companies may not by such contracts deprive themselves of ability to perform their ordinary duties as carriers. The contention that by such a contract, the railway company becomes a lessor or hirer of tracks, motive power, etc., is upheld only in *Coup v. Wabash, etc., Ry.*, supra, in an action by the circus company for damages, but the court expressly declines to say what would be the liability of the railway company to third persons under such circumstances. *Robertson v. Old Colony Ry.*, supra, and the other cases go on the assumption that the carrier is a carrier still but contracts as a private carrier. The principal case approves the former holding, thus constituting the circus company an independent contractor, to whom plaintiff must look for any possible liability. *Byrne v. Ry. Co.*, 61 Fed. 605, 9 C. C. A. 666, 24 L. R. A. 693; *Hardy v. Shedden Co.*, 78 Fed. 610, 24 L. R. A. 693; *Donovan v. Construction Syndicate*, 1 Q. B. [1893] 629; *Rourke v. Colliery Co.*, 2 C. P. Div. 205; *Powell v. Construction Co.*, 88 Tenn. 692; *Miller v. Ry. Co.*, 76 Iowa, 655. It is worthy of note that in all these cases, the servants, equipments, etc., leased or hired, passed under control of the lessee or hirer in good faith and for undertakings continuing in their nature; none of them apply to the single movement of a train between points on the same line where the train was under control of the lessor's dispatcher who at the same time directed the movements of a large number of other trains on the same road. *Burton v. Railroad*, 61 Tex. 526; *Mallory v. Railway Co.*, 39 Barb. 488, hold the carrier liable under the same class of contracts. In *Byrne v. Ry. Co.*, supra, the test is said to be "whose work was the servant doing?" and "under whose control was he doing it?" The principal case applies this rule to defendant's train dispatcher, engineer, and trainmen and is able to say that they were under the control of the circus company.

CONSTITUTIONAL LAW—JURISDICTION OF FEDERAL COURTS TO REVIEW CONTEMPT PROCEEDINGS IN STATE COURT.—On writ of error from the Supreme Court of Colorado to the United States Supreme Court, to review a judgment upon an information for constructive contempt in the publishing of certain articles concerning an action still pending before the Colorado court, *Held*, that contempt proceedings are matters of local law unaffected either by the first or fourteenth amendment to the Federal Constitution (Justices HARLAN and BREWER dissenting). *Patterson v. Colorado, ex rel. The Attorney General of the State of Colorado* (1907), 205 U. S. 454, 27 Sup. Ct. Rep. 556.

In the principal case, plaintiff in error attempted to justify by asserting the truth of the articles published, which for the purposes of the case was